IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 939 of 1987

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJARAM B GUPTA - Applicant(s)

Versus

BANSIDHAR NANDUBHAI - Opponent(s)

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Appearance :

MR JV MEHTA for Petitioners

Ms Sneha Jani for Mr AY Kogje for Respondents

Rest of the Respondents :: SERVED

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CORAM :HON'BLE MISS JUSTICE R.M.DOSHIT

Date : 13/07/2005

ORAL JUDGMENT

Feeling aggrieved by the judgment and order dated 5th August, 1987 passed by the learned Assistant Judge, Vadodara in Civil Revision Application No. 30 of 1984, the appellant, Applicant in Standard Rent Misc. Application No. 471 of 1979, has preferred the present Revision

Application under Section 29 of the Bombay Rents, Hotel & Lodging House Rates Control Act, 1947 {hereinafter referred to as, "**the Rent Act**'}.

The petitioner-applicant claims to be the tenant in the suit room, situated in the compound of Bunglow No. 11, Fateh Ganj, Vadodara. The petitioner took out the aforesaid Application No. 471 of 1979 under Section 11 (1) of the Rent Act for determination of the standard rent of the suit room. According to the applicant, the opponent was a tenant in part of the aforesaid Bunglow No. 11. In absence of the landlord, he had encroached upon the open land appurtenant to the bunglow, had constructed rooms on the said land and had leased the rooms to various tenants, including the applicant. The standard rent of the suit room was Rs. 5/= per month. The opponent had increased the rent exorbitantly to Rs. 60/= per month and was threatening to evict the tenants who did not pay the said exorbitant rent demanded by the opponent. The opponent neither appeared before the trial Court nor did he oppose the Application. The trial Court, by order dated 16th December, 1983 dismissed the Application. It was held that the applicant was not a lawful subtenant and had no right to make application for determination of the standard rent of the suit room.

Feeling aggrieved, the applicant preferred Civil

Revision Application No. 30 of 1984 in the Court of learned District Judge, Vadodara under Section 29 (3) of the Rent Act. The said Revision Application came to be dismissed by the impugned order dated 5th August, 1987. Therefore, the present Revision Application.

At the outset, it should be noted that the Revision Application under Section 29 of the Rent Act against the decision of the Revisional Court under Section 29 (3) of the Rent Act is not maintainable. The present Revision Application is, therefore, converted into Revision Application under Section 115 CPC.

It is admitted that the applicant was a tenant of the opponent who was a trespasser in the land in question. In my view, both the Courts were right in holding that the applicant was not a lawful sub-tenant and had no right to move application for determination of the standard rent of the suit room. The Application has rightly been rejected by the Courts below. No case for interference is made out. The Revision Application is dismissed. Rule is discharged. There shall be no order as to cost.

{Miss R.M Doshit, J.}